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THE GEO GROUP, INC., DIAZ, CAMPOS and
CITY OF ADELANTO

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

OMAR ARNOLDO RIVERA
MARTINEZ; ISAAC ANTONIO
LOPEZ CASTILLO; JOSUE
VLADIMIR CORTEZ DIAZ; JOSUE
MATEO LEMUS CAMPOS;
MARVIN JOSUE GRANDE
RODRIGUEZ; ALEXANDER
ANTONIO BURGOS MEJIA; LUIS
PENA GARCIA; JULIO CESAR
BARAHONA CORNEJO, as
individuals,

Plaintiffs,

v.

THE GEO GROUP, Inc., a Florida
corporation; the CITY OF
ADELANTO, a municipal entity; GEO
LIEUTENANT DURAN, sued in her
individual capacity; GEO
LIEUTENANT DIAZ, sued in her
individual capacity; GEO
SERGEANT CAMPOS, sued in his
individual capacity; SARAH JONES,
sued in her individual capacity; THE
UNITED STATES OF AMERICA;
and DOES 1-10, individuals,

Defendants.

Case No. 5:18-cv-01125-SP

**DEFENDANTS THE GEO GROUP,
INC.'S AND CITY OF
ADELANTO'S EVIDENTIARY
OBJECTIONS TO PLAINTIFFS'
EVIDENCE SUBMITTED IN
OPPOSITION TO THEIR MOTION
FOR SUMMARY JUDGMENT OR,
IN THE ALTERNATIVE, PARTIAL**

Hearing Date: December 17, 2019
Time: 10:00 a.m.
Courtroom: 3

Magistrate Judge: Honorable Sheri Pym

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Defendants THE GEO GROUP, INC. and CITY OF ADELANTO hereby object to the declarations and exhibits of Plaintiffs submitted in support of their Opposition to Defendants' Motion for Summary Judgment (Docs. # 118, 119, 120, 121, 125), as set forth in more detail below.

	EVIDENCE	GROUND FOR OBJECTION
Dkt. # 118	Declaration of Jeffrey Schwartz, paragraph 3 regarding alleged policy violations identified at the after-action review	Unreliable expert opinion. Fed. R. Evid. 702. <i>See Daubert v. Merrell Dow Pharms., Inc.</i> 43 F.3d 1311, 1315, 1321 n. 17 (9th Cir. 1995). Further, experts cannot testify on legal issues on which the judge will instruct the jury, or on issues that will determine the outcome of the case. <i>Elsayed Mukhtar v. California State Univ., Hayward</i> , 299 F.3d 1053, 1064 n.7 (9th Cir. 2002) <i>citing United States v. Rahm</i> , 993 F.2d 1404, 1413 (9th Cir. 1993). Irrelevant and immaterial as an alleged policy violation is not a per se violation of the law. FRE 402, 403; <i>Cousins v. Lockyer</i> , 568 F.3d 1063, 1070 (9th Cir. 2009) (<i>quoting Gardner v. Howard</i> , 109 F.3d 427, 430 (8th Cir. 1997)).
Dkt. # 118	Declaration of Jeffrey Schwartz, paragraph 4 regarding alleged deficiencies in the GEO policies and training materials	Unreliable expert opinion. Fed. R. Evid. 702. <i>See Daubert v. Merrell Dow Pharms., Inc.</i> 43 F.3d 1311, 1315, 1321

1		n. 17 (9th Cir. 1995).
2		Further, experts cannot testify on legal
3		issues on which the judge will instruct
4		the jury, or on issues that will
5		determine the outcome of the case.
6		<i>Elsayed Mukhtar v. California State</i>
7		<i>Univ., Hayward</i> , 299 F.3d 1053, 1064
8		n.7 (9th Cir. 2002) <i>citing United States</i>
9		<i>v. Rahm</i> , 993 F.2d 1404, 1413 (9th Cir.
10		1993).
11		Lack of foundation/speculation. Fed. R.
12		Evid. 602.
13		Irrelevant. Fed. R. Evid. 402, 403.
14	Dkt. #	Unreliable expert opinion. Fed. R. Evid.
15	118	702. <i>See Daubert v. Merrell Dow</i>
16	Declaration of Jeffrey	<i>Pharms., Inc.</i> 43 F.3d 1311, 1315, 1321
17	Schwartz, paragraph 5	n. 17 (9th Cir. 1995).
18	regarding “refresher	Further, experts cannot testify on legal
19	training” on OC spray	issues on which the judge will instruct
20		the jury, or on issues that will
21		determine the outcome of the case.
22		<i>Elsayed Mukhtar v. California State</i>
23		<i>Univ., Hayward</i> , 299 F.3d 1053, 1064
24		n.7 (9th Cir. 2002) <i>citing United States</i>
25		<i>v. Rahm</i> , 993 F.2d 1404, 1413 (9th Cir.
26		1993).
27		Lack of foundation/speculation. Fed. R.
28		

		Evid. 602. Irrelevant. Fed. R. Evid. 402, 403.
Dkt. # 118	Declaration of Jeffrey Schwartz, paragraph 6 regarding his opinion on whether there was a major disturbance	Unreliable expert opinion. Fed. R. Evid. 702. <i>See Daubert v. Merrell Dow Pharms., Inc.</i> 43 F.3d 1311, 1315, 1321 n. 17 (9th Cir. 1995). Further, experts cannot testify on legal issues on which the judge will instruct the jury, or on issues that will determine the outcome of the case. <i>Elsayed Mukhtar v. California State Univ., Hayward</i> , 299 F.3d 1053, 1064 n.7 (9th Cir. 2002) <i>citing United States v. Rahm</i> , 993 F.2d 1404, 1413 (9th Cir. 1993). Lack of foundation/speculation. Fed. R. Evid. 602. Irrelevant. Fed. R. Evid. 402, 403. Not best evidence.
Dkt. # 118	Declaration of Jeffrey Schwartz, paragraph 7 regarding Schwartz's expert report attached thereto as Exhibit "A"	Schwartz does not swear under penalty of perjury to the substantive opinions in his 13-page report. His report therefore lacks foundation. Fed. R. Evid. 901.
Dkt. # 118	Declaration of Jeffrey Schwartz, Ex. A – Report, I. Overview (pages 1-2)	Not best evidence. Schwartz's summation of the records is irrelevant. Fed. R. Evid. 402, 403. Unreliable expert opinion as to the

		<p>pertinent portions of the records. Fed. R. Evid. 702. <i>See Daubert v. Merrell Dow Pharms., Inc.</i> 43 F.3d 1311, 1315, 1321 n. 17 (9th Cir. 1995).</p> <p>Lack of foundation/speculation. Fed. R. Evid. 602.</p>
Dkt. # 118	Declaration of Jeffrey Schwartz, Ex. A – Report, III. Method (pages 4-5)	<p>Not best evidence.</p> <p>Schwartz’s opinions on the critical issues/crux of the case are irrelevant. Fed. R. Evid. 402, 403.</p> <p>Unreliable expert opinion as to the pertinent portions of the records. Fed. R. Evid. 702. <i>See Daubert v. Merrell Dow Pharms., Inc.</i> 43 F.3d 1311, 1315, 1321 n. 17 (9th Cir. 1995).</p> <p>Lack of foundation/speculation. Fed. R. Evid. 602.</p> <p>Experts cannot testify on legal issues on which the judge will instruct the jury, or on issues that will determine the outcome of the case. <i>Elsayed Mukhtar v. California State Univ., Hayward</i>, 299 F.3d 1053, 1064 n.7 (9th Cir. 2002) <i>citing United States v. Rahm</i>, 993 F.2d 1404, 1413 (9th Cir. 1993).</p>
Dkt. # 118	Declaration of Jeffrey Schwartz, Ex. A – Report, III [sic] Analysis and Opinions, A regarding the	<p>Unreliable expert opinion. Fed. R. Evid. 702. <i>See Daubert v. Merrell Dow</i></p>

1		duty to protect	<i>Pharms., Inc.</i> 43 F.3d 1311, 1315, 1321
2			n. 17 (9th Cir. 1995).
3			Experts cannot testify on legal issues on
4			which the judge will instruct the jury,
5			or on issues that will determine the
6			outcome of the case. <i>Elsayed Mukhtar</i>
7			<i>v. California State Univ., Hayward</i> , 299
8			F.3d 1053, 1064 n.7 (9th Cir. 2002)
9			<i>citing United States v. Rahm</i> , 993 F.2d
10			1404, 1413 (9th Cir. 1993).
11			Irrelevant. Fed. R. Evid. 402, 403.
12			Lack of foundation/speculation. Fed. R.
13			Evid. 602.
14			Not best evidence.
15	Dkt. #	Declaration of Jeffrey	Unreliable expert opinion. Fed. R. Evid.
16	118	Schwartz, Ex. A – Report,	702. <i>See Daubert v. Merrell Dow</i>
17		III [sic] Analysis and	<i>Pharms., Inc.</i> 43 F.3d 1311, 1315, 1321
18		Opinions, B regarding the	n. 17 (9th Cir. 1995).
19		ADC use of force and	Experts cannot testify on legal issues on
20		hunger policies	which the judge will instruct the jury,
21			or on issues that will determine the
22			outcome of the case. <i>Elsayed Mukhtar</i>
23			<i>v. California State Univ., Hayward</i> , 299
24			F.3d 1053, 1064 n.7 (9th Cir. 2002)
25			<i>citing United States v. Rahm</i> , 993 F.2d
26			1404, 1413 (9th Cir. 1993).
27			Irrelevant. Fed. R. Evid. 402, 403.
28			

		Lack of foundation/speculation. Fed. R. Evid. 602. Not best evidence.
Dkt. # 118	Declaration of Jeffrey Schwartz, Ex. A – Report, III [sic] Analysis and Opinions, C regarding the need to count	Unreliable expert opinion. Fed. R. Evid. 702. <i>See Daubert v. Merrell Dow Pharms., Inc.</i> 43 F.3d 1311, 1315, 1321 n. 17 (9th Cir. 1995). Experts cannot testify on legal issues on which the judge will instruct the jury, or on issues that will determine the outcome of the case. <i>Elsayed Mukhtar v. California State Univ., Hayward</i> , 299 F.3d 1053, 1064 n.7 (9th Cir. 2002) <i>citing United States v. Rahm</i> , 993 F.2d 1404, 1413 (9th Cir. 1993). Irrelevant. Fed. R. Evid. 402, 403. Lack of foundation/speculation. Fed. R. Evid. 602. Not best evidence.
Dkt. # 118	Declaration of Jeffrey Schwartz, Ex. A – Report, III [sic] Analysis and Opinions, D regarding whether it was an emergency situation	Unreliable expert opinion. Fed. R. Evid. 702. <i>See Daubert v. Merrell Dow Pharms., Inc.</i> 43 F.3d 1311, 1315, 1321 n. 17 (9th Cir. 1995). Experts cannot testify on legal issues on which the judge will instruct the jury, or on issues that will determine the outcome of the case. <i>Elsayed Mukhtar</i>

		<p><i>v. California State Univ., Hayward</i>, 299 F.3d 1053, 1064 n.7 (9th Cir. 2002) citing <i>United States v. Rahm</i>, 993 F.2d 1404, 1413 (9th Cir. 1993).</p> <p>Irrelevant. Fed. R. Evid. 402, 403.</p> <p>Lack of foundation/speculation. Fed. R. Evid. 602.</p> <p>Not best evidence.</p>
Dkt. # 118	Declaration of Jeffrey Schwartz, Ex. A – Report, III [sic] Analysis and Opinions, E regarding whether it was an emergency situation	<p>Unreliable expert opinion. Fed. R. Evid. 702. See <i>Daubert v. Merrell Dow Pharms., Inc.</i> 43 F.3d 1311, 1315, 1321 n. 17 (9th Cir. 1995).</p> <p>Experts cannot testify on legal issues on which the judge will instruct the jury, or on issues that will determine the outcome of the case. <i>Elsayed Mukhtar v. California State Univ., Hayward</i>, 299 F.3d 1053, 1064 n.7 (9th Cir. 2002) citing <i>United States v. Rahm</i>, 993 F.2d 1404, 1413 (9th Cir. 1993).</p> <p>Irrelevant. Fed. R. Evid. 402, 403.</p> <p>Lack of foundation/speculation. Fed. R. Evid. 602.</p> <p>Not best evidence.</p>
Dkt. # 118	Declaration of Jeffrey Schwartz, Ex. A – Report, III [sic] Analysis and Opinions, E regarding whether the detainees posed a threat	<p>Unreliable expert opinion. Fed. R. Evid. 702. See <i>Daubert v. Merrell Dow Pharms., Inc.</i> 43 F.3d 1311, 1315, 1321</p>

1		n. 17 (9th Cir. 1995).
2		Experts cannot testify on legal issues on
3		which the judge will instruct the jury,
4		or on issues that will determine the
5		outcome of the case. <i>Elsayed Mukhtar</i>
6		<i>v. California State Univ., Hayward</i> , 299
7		F.3d 1053, 1064 n.7 (9th Cir. 2002)
8		<i>citing United States v. Rahm</i> , 993 F.2d
9		1404, 1413 (9th Cir. 1993).
10		Irrelevant. Fed. R. Evid. 402, 403.
11		Lack of foundation/speculation. Fed. R.
12		Evid. 602.
13		Not best evidence.
14	Dkt. #	Unreliable expert opinion. Fed. R. Evid.
15	118	702. <i>See Daubert v. Merrell Dow</i>
16	Declaration of Jeffrey	<i>Pharms., Inc.</i> 43 F.3d 1311, 1315, 1321
17	Schwartz, Ex. A – Report,	n. 17 (9th Cir. 1995).
18	III [sic] Analysis and	Experts cannot testify on legal issues on
19	Opinions, F regarding	which the judge will instruct the jury,
20	communicating with the	or on issues that will determine the
21	protesting detainees	outcome of the case. <i>Elsayed Mukhtar</i>
22		<i>v. California State Univ., Hayward</i> , 299
23		F.3d 1053, 1064 n.7 (9th Cir. 2002)
24		<i>citing United States v. Rahm</i> , 993 F.2d
25		1404, 1413 (9th Cir. 1993).
26		Irrelevant. Fed. R. Evid. 402, 403.
27		Lack of foundation/speculation. Fed. R.
28		

		Evid. 602. Not best evidence.
Dkt. # 118	Declaration of Jeffrey Schwartz, Ex. A – Report, III [sic] Analysis and Opinions, G regarding detainee grievances	Unreliable expert opinion. Fed. R. Evid. 702. <i>See Daubert v. Merrell Dow Pharms., Inc.</i> 43 F.3d 1311, 1315, 1321 n. 17 (9th Cir. 1995). Experts cannot testify on legal issues on which the judge will instruct the jury, or on issues that will determine the outcome of the case. <i>Elsayed Mukhtar v. California State Univ., Hayward</i> , 299 F.3d 1053, 1064 n.7 (9th Cir. 2002) <i>citing United States v. Rahm</i> , 993 F.2d 1404, 1413 (9th Cir. 1993). Irrelevant. Fed. R. Evid. 402, 403. Lack of foundation/speculation. Fed. R. Evid. 602. Not best evidence.
Dkt. # 118	Declaration of Jeffrey Schwartz, Ex. A – Report, III [sic] Analysis and Opinions, G regarding the documentation of the use of OC spray	Unreliable expert opinion. Fed. R. Evid. 702. <i>See Daubert v. Merrell Dow Pharms., Inc.</i> 43 F.3d 1311, 1315, 1321 n. 17 (9th Cir. 1995). Experts cannot testify on legal issues on which the judge will instruct the jury, or on issues that will determine the outcome of the case. <i>Elsayed Mukhtar v. California State Univ., Hayward</i> , 299

1		F.3d 1053, 1064 n.7 (9th Cir. 2002)
2		<i>citing United States v. Rahm</i> , 993 F.2d
3		1404, 1413 (9th Cir. 1993).
4		Irrelevant. Fed. R. Evid. 402, 403.
5		Lack of foundation/speculation. Fed. R.
6		Evid. 602.
7		Not best evidence.
8	Dkt. #	Unreliable expert opinion. Fed. R. Evid.
9	118	702. <i>See Daubert v. Merrell Dow</i>
10	Declaration of Jeffrey	<i>Pharms., Inc.</i> 43 F.3d 1311, 1315, 1321
11	Schwartz, Ex. A – Report,	n. 17 (9th Cir. 1995).
12	III [sic] Analysis and	Experts cannot testify on legal issues on
13	Opinions, I regarding	which the judge will instruct the jury,
14	detainee injuries	or on issues that will determine the
15		outcome of the case. <i>Elsayed Mukhtar</i>
16		<i>v. California State Univ., Hayward</i> , 299
17		F.3d 1053, 1064 n.7 (9th Cir. 2002)
18		<i>citing United States v. Rahm</i> , 993 F.2d
19		1404, 1413 (9th Cir. 1993).
20		Irrelevant. Fed. R. Evid. 402, 403.
21		Lack of foundation/speculation. Fed. R.
22		Evid. 602.
23		Not best evidence.
24	Dkt. #	Unreliable expert opinion. Fed. R. Evid.
25	118	702. <i>See Daubert v. Merrell Dow</i>
26	Declaration of Jeffrey	<i>Pharms., Inc.</i> 43 F.3d 1311, 1315, 1321
27	Schwartz, Ex. A – Report,	n. 17 (9th Cir. 1995).
28	III [sic] Analysis and	
	Opinions, J regarding	
	disciplinary hearings and	
	sanctions	

1		Experts cannot testify on legal issues on
2		which the judge will instruct the jury,
3		or on issues that will determine the
4		outcome of the case. <i>Elsayed Mukhtar</i>
5		<i>v. California State Univ., Hayward</i> , 299
6		F.3d 1053, 1064 n.7 (9th Cir. 2002)
7		<i>citing United States v. Rahm</i> , 993 F.2d
8		1404, 1413 (9th Cir. 1993).
9		Irrelevant. Fed. R. Evid. 402, 403.
10		Lack of foundation/speculation. Fed. R.
11		Evid. 602.
12		Not best evidence.
13	Dkt. #	Unreliable expert opinion. Fed. R. Evid.
14	118	702. <i>See Daubert v. Merrell Dow</i>
15	Declaration of Jeffrey	<i>Pharms., Inc.</i> 43 F.3d 1311, 1315, 1321
16	Schwartz, Ex. A – Report,	n. 17 (9th Cir. 1995).
17	III [sic] Analysis and	Experts cannot testify on legal issues on
18	Opinions, J regarding	which the judge will instruct the jury,
19	disciplinary hearings and	or on issues that will determine the
20	sanctions	outcome of the case. <i>Elsayed Mukhtar</i>
21		<i>v. California State Univ., Hayward</i> , 299
22		F.3d 1053, 1064 n.7 (9th Cir. 2002)
23		<i>citing United States v. Rahm</i> , 993 F.2d
24		1404, 1413 (9th Cir. 1993).
25		Irrelevant. Fed. R. Evid. 402, 403.
26		Lack of foundation/speculation. Fed. R.
27		Evid. 602.
28		

1		Not best evidence.
2		
3	Dkt. #	Unreliable expert opinion. Fed. R. Evid.
4	118	702. <i>See Daubert v. Merrell Dow</i>
5	Declaration of Jeffrey	<i>Pharms., Inc.</i> 43 F.3d 1311, 1315, 1321
6	Schwartz, Ex. A – Report,	n. 17 (9th Cir. 1995).
7	III [sic] Analysis and	Experts cannot testify on legal issues on
8	Opinions, K regarding	which the judge will instruct the jury,
9	staff training	or on issues that will determine the
10		outcome of the case. <i>Elsayed Mukhtar</i>
11		<i>v. California State Univ., Hayward</i> , 299
12		F.3d 1053, 1064 n.7 (9th Cir. 2002)
13		<i>citing United States v. Rahm</i> , 993 F.2d
14		1404, 1413 (9th Cir. 1993).
15		Irrelevant. Fed. R. Evid. 402, 403.
16		Lack of foundation/speculation. Fed. R.
17		Evid. 602.
18		Not best evidence.
19	Dkt. #	Unreliable expert opinion. Fed. R. Evid.
20	118	702. <i>See Daubert v. Merrell Dow</i>
21	Declaration of Jeffrey	<i>Pharms., Inc.</i> 43 F.3d 1311, 1315, 1321
22	Schwartz, Ex. A – Report,	n. 17 (9th Cir. 1995).
23	III [sic] Analysis and	Experts cannot testify on legal issues on
24	Opinions, L regarding	which the judge will instruct the jury,
25	officer reports	or on issues that will determine the
26		outcome of the case. <i>Elsayed Mukhtar</i>
27		<i>v. California State Univ., Hayward</i> , 299
28		F.3d 1053, 1064 n.7 (9th Cir. 2002)

		<p><i>citing United States v. Rahm</i>, 993 F.2d 1404, 1413 (9th Cir. 1993).</p> <p>Irrelevant. Fed. R. Evid. 402, 403.</p> <p>Lack of foundation/speculation. Fed. R. Evid. 602.</p> <p>Not best evidence.</p>
Dkt. # 118	Declaration of Jeffrey Schwartz, Ex. A – Report, III [sic] Analysis and Opinions, M regarding video reporting	<p>Unreliable expert opinion. Fed. R. Evid. 702. <i>See Daubert v. Merrell Dow Pharms., Inc.</i> 43 F.3d 1311, 1315, 1321 n. 17 (9th Cir. 1995).</p> <p>Experts cannot testify on legal issues on which the judge will instruct the jury, or on issues that will determine the outcome of the case. <i>Elsayed Mukhtar v. California State Univ., Hayward</i>, 299 F.3d 1053, 1064 n.7 (9th Cir. 2002) <i>citing United States v. Rahm</i>, 993 F.2d 1404, 1413 (9th Cir. 1993).</p> <p>Irrelevant. Fed. R. Evid. 402, 403.</p> <p>Lack of foundation/speculation. Fed. R. Evid. 602.</p> <p>Not best evidence.</p>
Dkt. # 118	Declaration of Jeffrey Schwartz, Ex. A – Report, III [sic] Analysis and Opinions, M regarding video reporting	<p>Unreliable expert opinion. Fed. R. Evid. 702. <i>See Daubert v. Merrell Dow Pharms., Inc.</i> 43 F.3d 1311, 1315, 1321 n. 17 (9th Cir. 1995).</p> <p>Experts cannot testify on legal issues on</p>

1		which the judge will instruct the jury,
2		or on issues that will determine the
3		outcome of the case. <i>Elsayed Mukhtar</i>
4		<i>v. California State Univ., Hayward</i> , 299
5		F.3d 1053, 1064 n.7 (9th Cir. 2002)
6		<i>citing United States v. Rahm</i> , 993 F.2d
7		1404, 1413 (9th Cir. 1993).
8		Irrelevant. Fed. R. Evid. 402, 403.
9		Lack of foundation/speculation. Fed. R.
10		Evid. 602.
11		Not best evidence.
12	Dkt. #	Unreliable expert opinion. Fed. R. Evid.
13	118	702. <i>See Daubert v. Merrell Dow</i>
14	Declaration of Jeffrey	<i>Pharms., Inc.</i> 43 F.3d 1311, 1315, 1321
15	Schwartz, Ex. A – Report,	n. 17 (9th Cir. 1995).
16	IV [sic] Summary and	Experts cannot testify on legal issues on
17	Conclusions	which the judge will instruct the jury,
18		or on issues that will determine the
19		outcome of the case. <i>Elsayed Mukhtar</i>
20		<i>v. California State Univ., Hayward</i> , 299
21		F.3d 1053, 1064 n.7 (9th Cir. 2002)
22		<i>citing United States v. Rahm</i> , 993 F.2d
23		1404, 1413 (9th Cir. 1993).
24		Irrelevant. Fed. R. Evid. 402, 403.
25		Lack of foundation/speculation. Fed. R.
26		Evid. 602.
27		Not best evidence.
28		

1	Dkt. #	Declaration of Plaintiff	Not best evidence.
2	119	Castillo, paragraph 4	Irrelevant. Fed. R. Evid. 402, 403.
3		regarding the temperature	Vague and ambiguous.
4		of the water at the Facility	
5	Dkt. #	Declaration of Plaintiff	Not best evidence.
6	119	Castillo, paragraph 5	Irrelevant. Fed. R. Evid. 402, 403.
7		regarding the temperature	Speculation that the water was in fact
8		of the water during the	hot and as opposed to the fact that
9		decontamination process	water, generally, reactivates the OC
10			spray, lack of foundation. Fed. R. Evid.
11			602.
12			Vague and ambiguous.
13	Dkt. #	Declaration of Plaintiff	Not best evidence.
14	119	Castillo, paragraph 5	Speculation, lack of foundation. Fed. R.
15		regarding his calls being	Evid. 602.
16		restricted	
17	Dkt. #	Declaration of Plaintiff	Not best evidence.
18	120	Martinez, paragraph 4	Irrelevant. Fed. R. Evid. 402, 403.
19		regarding the temperature	Vague and ambiguous.
20		of the water at the Facility	
21	Dkt. #	Declaration of Plaintiff	Not best evidence.
22	120	Martinez, paragraph 5	Irrelevant. Fed. R. Evid. 402, 403.
23		regarding the temperature	Vague and ambiguous.
24		of the water at the Facility	
25	Dkt. #	Declaration of Homer	Irrelevant. Fed. R. Evid. 402, 403. Lack
26	121	Venters, paragraph 3	of foundation, speculation. Fed. R.
27		regarding "universally	Evid. 602. Assumes facts not in
28		accepted" protocols	evidence, therefore misleading and
		regarding decontamination	unduly prejudicial. Fed. R. Evid. 403.
		steps.	Unreliable expert opinion. Fed. R. Evid.

1		702. <i>See Daubert v. Merrell Dow</i>
2		<i>Pharms., Inc.</i> 43 F.3d 1311, 1315, 1321
3		n. 17 (9th Cir. 1995).
4		Experts cannot testify on legal issues on
5		which the judge will instruct the jury,
6		or on issues that will determine the
7		outcome of the case. <i>Elsayed Mukhtar</i>
8		<i>v. California State Univ., Hayward</i> , 299
9		F.3d 1053, 1064 n.7 (9th Cir. 2002)
10		<i>citing United States v. Rahm</i> , 993 F.2d
11		1404, 1413 (9th Cir. 1993).
12	Dkt. #	Venter does not swear under penalty of
13	121	perjury to the substantive opinions in
14	Declaration of Homer	his 13-page report. His report therefore
15	Venters, paragraph 4	lacks foundation. Fed. R. Evid. 901.
16	report attached thereto as	
17	Exhibit "A"	
18	Dkt. #	Venter does not swear under penalty of
19	121	perjury to the substantive opinions in
20	Declaration of Homer	his 13-page report. His report therefore
21	Venters, Ex. "A" – Entire	lacks foundation. Fed. R. Evid. 901.
22	report	Irrelevant. Fed. R. Evid. 402, 403.
23		Lack of foundation/speculation. Fed. R.
24		Evid. 602.
25		Unreliable expert opinion. Fed. R. Evid.
26		702. <i>See Daubert v. Merrell Dow</i>
27		<i>Pharms., Inc.</i> 43 F.3d 1311, 1315, 1321
28		n. 17 (9th Cir. 1995).
		Experts cannot testify on legal issues on

1		which the judge will instruct the jury,
2		or on issues that will determine the
3		outcome of the case. <i>Elsayed Mukhtar</i>
4		<i>v. California State Univ., Hayward</i> , 299
5		F.3d 1053, 1064 n.7 (9th Cir. 2002)
6		<i>citing United States v. Rahm</i> , 993 F.2d
7		1404, 1413 (9th Cir. 1993).
8		Irrelevant and immaterial as an alleged
9		policy violation is not a per se violation
10		of the law. FRE 402, 403; <i>Cousins v.</i>
11		<i>Lockyer</i> , 568 F.3d 1063, 1070 (9th Cir.
12		2009) (<i>quoting Gardner v. Howard</i> ,
13		109 F.3d 427, 430 (8th Cir. 1997)).
14	Dkt. #	Irrelevant. Fed. R. Evid. 402, 403.
15	121	Lack of foundation/speculation. Fed. R.
16	Declaration of Homer	Evid. 602.
17	Venters, Ex. A, "Opinion"	Unreliable expert opinion. Fed. R. Evid.
18	# 1 (including subsections	702. <i>See Daubert v. Merrell Dow</i>
19	a through d) regarding the	<i>Pharms., Inc.</i> 43 F.3d 1311, 1315, 1321
20	force used	n. 17 (9th Cir. 1995). Venters is a
21		medical doctor opining on issues
22		related to force used in correctional
23		settings.
24		Experts cannot testify on legal issues on
25		which the judge will instruct the jury,
26		or on issues that will determine the
27		outcome of the case. <i>Elsayed Mukhtar</i>
28		

1		<i>v. California State Univ., Hayward</i> , 299
2		F.3d 1053, 1064 n.7 (9th Cir. 2002)
3		<i>citing United States v. Rahm</i> , 993 F.2d
4		1404, 1413 (9th Cir. 1993).
5		Not best evidence.
6	Dkt. #	Irrelevant. Fed. R. Evid. 402, 403.
7	121	Lack of foundation/speculation. Fed. R.
8	Declaration of Homer	Evid. 602.
9	Venters, Ex. A, "Opinion"	Unreliable expert opinion. Fed. R. Evid.
10	# 2 regarding correctional	702. <i>See Daubert v. Merrell Dow</i>
11	policies and practices and	<i>Pharms., Inc.</i> 43 F.3d 1311, 1315, 1321
12	the events that took place	n. 17 (9th Cir. 1995).
13	after the incident	Experts cannot testify on legal issues on
14		which the judge will instruct the jury,
15		or on issues that will determine the
16		outcome of the case. <i>Elsayed Mukhtar</i>
17		<i>v. California State Univ., Hayward</i> , 299
18		F.3d 1053, 1064 n.7 (9th Cir. 2002)
19		<i>citing United States v. Rahm</i> , 993 F.2d
20		1404, 1413 (9th Cir. 1993).
21		Not best evidence.
22	Dkt. #	Irrelevant. Fed. R. Evid. 402, 403.
23	121	Lack of foundation/speculation. Fed. R.
24	Declaration of Homer	Evid. 602.
25	Venters, Ex. A, "Opinion"	Unreliable expert opinion. Fed. R. Evid.
26	# 3 regarding correctional	702. <i>See Daubert v. Merrell Dow</i>
27	policies and practices	<i>Pharms., Inc.</i> 43 F.3d 1311, 1315, 1321
28	applicable to hunger	
	strikes	

1		n. 17 (9th Cir. 1995).
2		Experts cannot testify on legal issues on
3		which the judge will instruct the jury,
4		or on issues that will determine the
5		outcome of the case. <i>Elsayed Mukhtar</i>
6		<i>v. California State Univ., Hayward</i> , 299
7		F.3d 1053, 1064 n.7 (9th Cir. 2002)
8		<i>citing United States v. Rahm</i> , 993 F.2d
9		1404, 1413 (9th Cir. 1993).
10		Not best evidence.
11	Dkt. #	Irrelevant. Fed. R. Evid. 402, 403.
12	121	Lack of foundation/speculation. Fed. R.
13	Declaration of Homer	Evid. 602.
14	Venters, Ex. A, "Opinion"	Unreliable expert opinion. Fed. R. Evid.
15	# 4 regarding plaintiffs'	702. <i>See Daubert v. Merrell Dow</i>
16	failure to seek medical	<i>Pharms., Inc.</i> 43 F.3d 1311, 1315, 1321
17	care after their release	n. 17 (9th Cir. 1995).
18	from the Facility	Not best evidence.
19		Assumes facts not in evidence,
20		therefore misleading and unduly
21		prejudicial. Fed. R. Evid. 403.
22	Dkt. #	Not best evidence.
23	121	Dr. Venters' summation of the records
24	Declaration of Homer	is irrelevant. Fed. R. Evid. 402, 403.
25	Venters, Ex. A, "Incident	Unreliable expert opinion as to the
26	Review Details" (pages 7-	pertinent portions of the records. Fed.
27	13)	R. Evid. 702. <i>See Daubert v. Merrell</i>
28		

		<i>Dow Pharms., Inc.</i> 43 F.3d 1311, 1315, 1321 n. 17 (9th Cir. 1995). Lack of foundation/speculation. Fed. R. Evid. 602.
Dkt. # 125-1	Exhibit 5 – Dorm Log Entries	Lack of foundation/speculation. Fed. R. Evid. 602. Not best evidence.
Dkt. # 125-2	Exhibit 6 – Entire letter from Nicole Ramos	Relies on inadmissible hearsay. Lacks foundation as the letter is not under penalty of perjury. Fed. R. Evid. 901. Irrelevant. Fed. R. Evid. 402, 403. Lack of foundation/speculation. Fed. R. Evid. 602. Ms. Ramos, an attorney, provides opinions on the events that purportedly took place at the Facility. This is unreliable “expert” opinion. Fed. R. Evid. 702. <i>See Daubert v. Merrell Dow Pharms., Inc.</i> 43 F.3d 1311, 1315, 1321 n. 17 (9th Cir. 1995).
Dkt. # 125-2	Exhibit 6 –Letter from Nicole Ramos, “A Peaceful Hunger Strike”	Relies on inadmissible hearsay. Irrelevant. Fed. R. Evid. 402, 403. Lack of foundation/speculation. Fed. R. Evid. 602. Ms. Ramos, an attorney, provides opinions on the events that purportedly

1			took place at the Facility. This is
2			unreliable “expert” opinion. Fed. R.
3			Evid. 702. <i>See Daubert v. Merrell Dow</i>
4			<i>Pharms., Inc.</i> 43 F.3d 1311, 1315, 1321
5			n. 17 (9th Cir. 1995).
6			Not best evidence.
7	Dkt. #	Exhibit 6 –Letter from	Relies on inadmissible hearsay.
8	125-2	Nicole Ramos, “Physical	Irrelevant. Fed. R. Evid. 402, 403.
9		Abuse...”	Lack of foundation/speculation. Fed. R.
10			Evid. 602.
11			Ms. Ramos, an attorney, provides
12			opinions on the events that purportedly
13			took place at the Facility. This is
14			unreliable “expert” opinion. Fed. R.
15			Evid. 702. <i>See Daubert v. Merrell Dow</i>
16			<i>Pharms., Inc.</i> 43 F.3d 1311, 1315, 1321
17			n. 17 (9th Cir. 1995).
18			Not best evidence.
19	Dkt. #	Exhibit 6 –Letter from	Relies on inadmissible hearsay.
20	125-2	Nicole Ramos, “Injuries &	Irrelevant. Fed. R. Evid. 402, 403.
21		Refusal to Provide Medical	Lack of foundation/speculation. Fed. R.
22		Treatment”	Evid. 602.
23			Ms. Ramos, an attorney, provides
24			opinions on the events that purportedly
25			took place at the Facility. This is
26			unreliable “expert” opinion. Fed. R.
27			Evid. 702. <i>See Daubert v. Merrell Dow</i>
28			

1			<i>Pharms., Inc.</i> 43 F.3d 1311, 1315, 1321
2			n. 17 (9th Cir. 1995).
3			Not best evidence.
4	Dkt. #	Exhibit 6 –Letter from	Relies on inadmissible hearsay.
5	125-2	Nicole Ramos, “Preventing	Irrelevant. Fed. R. Evid. 402, 403.
6		Access to the Complaint	Lack of foundation/speculation. Fed. R.
7		Process”	Evid. 602.
8			Ms. Ramos, an attorney, provides
9			opinions on the events that purportedly
10			took place at the Facility. This is
11			unreliable “expert” opinion. Fed. R.
12			Evid. 702. <i>See Daubert v. Merrell Dow</i>
13			<i>Pharms., Inc.</i> 43 F.3d 1311, 1315, 1321
14			n. 17 (9th Cir. 1995).
15			Not best evidence.
16	Dkt. #	Exhibit 6 –Letter from	Relies on inadmissible hearsay.
17	125-2	Nicole Ramos, “Orantes	Irrelevant. Fed. R. Evid. 402, 403.
18		Violations”	Lack of foundation/speculation. Fed. R.
19			Evid. 602.
20			Ms. Ramos, an attorney, provides
21			opinions on the events that purportedly
22			took place at the Facility. This is
23			unreliable “expert” opinion. Fed. R.
24			Evid. 702. <i>See Daubert v. Merrell Dow</i>
25			<i>Pharms., Inc.</i> 43 F.3d 1311, 1315, 1321
26			n. 17 (9th Cir. 1995).
27			Not best evidence.
28			

1 2 3 4 5 6 7 8 9 10 11 12	Dkt. # 125-2	Exhibit 6 –Letter from Nicole Ramos, “Investigation & Action Steps Requested”	Relies on inadmissible hearsay. Irrelevant. Fed. R. Evid. 402, 403. Lack of foundation/speculation. Fed. R. Evid. 602. Ms. Ramos, an attorney, provides opinions on the events that purportedly took place at the Facility. This is unreliable “expert” opinion. Fed. R. Evid. 702. <i>See Daubert v. Merrell Dow Pharms., Inc.</i> 43 F.3d 1311, 1315, 1321 n. 17 (9th Cir. 1995). Not best evidence.
13 14 15 16	Dkt. # 125-4	Exhibit 32 – Plaintiff Garcia’s interrogatory responses	The responses are not verified and, therefore, lack foundation. Fed. R. Evid. 901.
17 18 19 20 21 22 23 24 25	Dkt. # 125-4	Exhibit 41 – Entire letter from Nicole Ramos	Relies on inadmissible hearsay. Lacks foundation as the letter is not under penalty of perjury. Fed. R. Evid. 901. Irrelevant. Fed. R. Evid. 402, 403. Lack of foundation/speculation, as she was not a percipient witness. Fed. R. Evid. 602. Not best evidence.
26 27 28	Dkt. # 125-5	Exhibit 45 – Log prepared by Plaintiff Castillo	Lacks foundation as the log is not under penalty of perjury. Fed. R. Evid. 901.

		Irrelevant. Fed. R. Evid. 402, 403.
Dkt. # 125-5	Exhibit 48 – Letter prepared by Michael Kaufman	Lacks foundation as the letter is not under penalty of perjury. Fed. R. Evid. 901. Irrelevant. Fed. R. Evid. 402, 403. Unreliable opinion. Fed. R. Evid. 702. <i>See Daubert v. Merrell Dow Pharms., Inc.</i> 43 F.3d 1311, 1315, 1321 n. 17 (9th Cir. 1995). Argumentative. Improper legal analysis and conclusion. Relies on inadmissible hearsay.
Dkt. # 125-5	Exhibit 49- Declaration of Hussain Turk	Irrelevant. Fed. R. Evid. 402, 403. Unreliable opinion as to causation regarding medical injuries allegedly sustained by plaintiffs by an attorney. Fed. R. Evid. 702. <i>See Daubert v. Merrell Dow Pharms., Inc.</i> 43 F.3d 1311, 1315, 1321 n. 17 (9th Cir. 1995). Argumentative. Improper legal analysis and conclusion. Relies on inadmissible hearsay. Speculation, lack of foundation. Fed. R. Evid. 602.

1 Dated: December 6, 2019

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2
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